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Paper No.

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**OFFICE OF PETITIONS**

|                            |   |                        |
|----------------------------|---|------------------------|
| In re Patent No. 7,193,044 | : |                        |
| Xiao-Mai Zhou              | : | DECISION ON REQUEST    |
| Issue Date: March 20, 2007 | : | FOR RECONSIDERATION OF |
| Application No. 09/580,523 | : | PATENT TERM ADJUSTMENT |
| Filed: May 30, 2000        | : |                        |
| Attorney Docket No. A7483  | : |                        |

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (UNDER 37 C.F.R. § 1.705(d))" filed May 7, 2007. Patentee requests that the Patent Term Adjustment for the above-identified patent be set at 1224 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentee is given TWO (2) MONTHS to respond to this decision. No extensions of time will be granted under § 1.136.

On March 20, 2007, the above-identified application matured into U.S. Patent No. 7,193,044. The instant request for reconsideration filed May 7, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 1104 days. This revised determination was calculated as follows: The initial determination of PTA of 0 days was increased by 987 days for Office delay in issuing the patent, and by 117 days pursuant to the Decision on Application for Patent Term Adjustment mailed on February 16, 2007.

Patentee contends that there should have been no reduction for the filing, after the mailing of the notice of allowance, of the Request for Notice of Recordation of Assignment filed on September 20, 2006. Patentee avers that these papers are examples of submissions after a Notice of Allowance that are not considered a failure to engage in reasonable efforts to conclude processing or examination of an application, in accordance with the "Clarification of 37 C.F.R. §1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance Has Been Mailed," 1247 OG 111 (June 27, 2001).

Patentee's contention is not well taken. The OG Notice states that:

Accordingly, the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

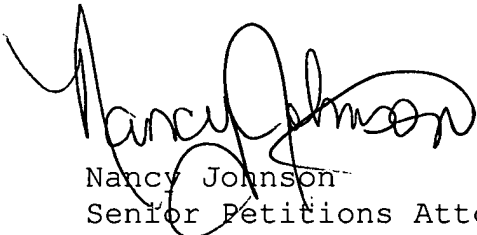
A Request for Notice of Recordation of Assignment is not among those examples. Furthermore, patentee's contention that the paper should not be considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application and should not result in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10), is not warranted. While patentee contends that the "[t]he Examiner just needed to ignore the paper, as he did," the paper is styled as a request, requiring the examiner to at least review the

paper to determine if a response was necessary. Furthermore, the filing of this paper was unnecessary. 37 CFR § 3.27, 3.28, and 3.31 sets forth the procedure for filing assignment documents and cover sheets to be recorded. In summary, while it is unfortunate that this paper was inadvertently filed, such inadvertence does not overcome a presumption that the filing of this paper constitutes "a failure to engage in reasonable efforts" to conclude processing or examination of an application.

In view thereof, the patent term adjustment was properly indicated on the patent as 1104 days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

A handwritten signature in black ink, appearing to read "Nancy Johnson", is written over the typed name and title.

Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions